

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LOAY S. NASER

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY, ET AL.,

Defendants.

Case No.: 5:10-4475 EJD (HRL)

**ORDER DENYING MOTION FOR
LEAVE TO FILE AMENDED
ANSWER AND COUNTERCLAIMS**

(Re: Docket No. 31)

On August 3, 2011, Defendants filed a motion for leave to file their Amended Answer and Counterclaims to add counterclaims of breach of fiduciary duty and unjust enrichment. The motion is styled as an administrative motion and was not noticed for a hearing. On August 17, 2011, Plaintiff filed his opposition to the motion. Plaintiff argues that Defendants' motion is not a request for administrative relief that can be brought pursuant to Civil L.R. 7-11 and must comply with Civil L.R. 7-2.

Civil L.R. 7-11 states that "[t]he Court recognizes that during the course of case proceedings a party may require a Court order with respect to miscellaneous administrative matters, not otherwise governed by a federal statute, Federal or local rule or standing order of the assigned judge." An administrative motion brought under Civil L.R. 7-11, compared to a motion

that complies with Civil L.R. 7-2, allows the non-moving party a shorter time-period and fewer pages in which to oppose the motion and provides for no reply or oral argument.

A motion for leave to amend pleadings cannot be styled as an administrative motion under Civil L.R. 7-11 because this matter is governed by Fed. R. Civ. P. 15. In this instance, Fed. R. Civ. P. 15(a)(2) requires Defendants to seek leave of court because more than twenty-one days have passed since Defendants served their Answer and Defendants do not have Plaintiff's written consent to amend. Defendants are aware of this requirement and of the governing federal rule, and they cite Rule 15(a) in their motion. Thus, this motion must comply with Civil L.R. 7-2¹ and is procedurally defective in its current form. Accordingly,

IT IS HEREBY ORDERED that Defendants' motion is DENIED without prejudice to their bringing a motion that complies with the requirements of Civil L.R. 7-2.

Dated: Cwi wuv'52."4233



EDWARD J. DAVILA
United States District Judge

¹ A review of other motions for leave to amend answers to add counter-claims filed in this district confirms that such motions typically comply with the requirements of Civil L.R. 7-2 and are not styled as administrative motions under Civil L.R. 7-11. See, e.g., Counter Motion for Leave to File Counter Claim, Green Valley Corp. v. Caldo Oil Co., 09-CV-04028-LHK (N.D. Cal. Mar. 14, 2011), ECF No. 74; Motion for Leave to File Counterclaim, Juarez v. Jani-King of California, Inc., CIV. 09-3495 SC, (N.D. Cal. July 8, 2010), ECF No. 47; Motion for Leave To Amend Answer, Phoenix Solutions, Inc. v. Sony Electronics, Inc., No. C 07-02112 MHP, (N.D. Cal. Apr. 18, 2008), ECF No. 121.